IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revn. No.2445 of 2006

DATE OF DECISION:29.1.2007

Sanjeev Nagpal .....Petitioner

Versus

Kusum Bhalla & Co. .....Respondents

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri Aman Kashyap, Advocate
for the petitioner.

Shri Inderjit Sharma, Advocate
for the respondents.

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This petition has been filed by the petitioner (accused) for setting aside the order dated 17.11.2006 passed by the Additional Sessions Judge, Chandigarh, before whom the appeal against conviction and sentence filed by the petitioner was pending.

On 17.11.2006, when at the time of hearing of appeal, the petitioner or his counsel was not present, his bail bonds were cancelled and forfeited and he was summoned through non-bailable warrants. Notice was also issued to the surety.

Counsel for the petitioner contends that the petitioner was on bail in appeal filed by him against his conviction and sentence under Section 138 of the Negotiable Instruments Act. He further contends that when the appeal was called for hearing on 17.11.2006, counsel for the petitioner could not reach the Court in time. It is the case of the petitioner that on the said date, he was ill and he had already informed his counsel to file an application for exemption, which was not entertained by the appellate Court on the ground that the bail of the petitioner has already

been cancelled. Counsel for the petitioner further contends that the non-appearance of the petitioner and his counsel on the date fixed was not intentional and was bonafide. Counsel also contends that in terms of the order dated 30.11.2006, the petitioner has appeared before the trial Court and has furnished his fresh bail bonds, which have been accepted and attested and since then he is regularly appearing before the trial Court.

After hearing counsel for the parties and keeping in view the aforesaid facts, I am of the opinion that the non-appearance of the petitioner and his counsel on the said date was unintentional. Since the petitioner has already furnished his fresh bail bonds, therefore, the interim order dated 30.11.2006 is made absolute. Notice issued to the surety is also hereby quashed.

The appellate Court is also directed to decide the appeal expeditiously.

January 29, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**